

**ASSEMBLY BILL**

**No. 2216**

**Introduced by Assembly Member Keeley**

February 20, 2002

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An act to amend Sections 6401 and 6402 of the Probate Code, relating to intestate succession.

LEGISLATIVE COUNSEL'S DIGEST

AB 2216, as introduced, Keeley. Intestate succession: domestic partners.

Under the existing law of intestate succession, the surviving spouse is entitled to a specified share of the decedent's separate property that is not effectively disposed of by will.

This bill would extend this entitlement to a decedent's domestic partner. This bill would also make conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 6401 of the Probate Code is amended to  
2     read:  
3     6401. (a) As to community property, the intestate share of the  
4     surviving spouse is the one-half of the community property that  
5     belongs to the decedent under Section 100.  
6     (b) As to quasi-community property, the intestate share of the  
7     surviving spouse is the one-half of the quasi-community property  
8     that belongs to the decedent under Section 101.

1 (c) As to separate property, the intestate share of the surviving  
2 spouse *or domestic partner* is as follows:

3 (1) The entire intestate estate if the decedent did not leave any  
4 surviving issue, parent, brother, sister, or issue of a deceased  
5 brother or sister.

6 (2) One-half of the intestate estate in the following cases:

7 (A) Where the decedent leaves only one child or the issue of  
8 one deceased child.

9 (B) Where the decedent leaves no issue but leaves a parent or  
10 parents or their issue or the issue of either of them.

11 (3) One-third of the intestate estate in the following cases:

12 (A) Where the decedent leaves more than one child.

13 (B) Where the decedent leaves one child and the issue of one  
14 or more deceased children.

15 (C) Where the decedent leaves issue of two or more deceased  
16 children.

17 SEC. 2. Section 6402 of the Probate Code is amended to read:

18 6402. Except as provided in Section 6402.5, the part of the  
19 intestate estate not passing to the surviving spouse *or domestic*  
20 *partner* under Section 6401, or the entire intestate estate if there  
21 is no surviving spouse *or domestic partner*, passes as follows:

22 (a) To the issue of the decedent, the issue taking equally if they  
23 are all of the same degree of kinship to the decedent, but if of  
24 unequal degree those of more remote degree take in the manner  
25 provided in Section 240.

26 (b) If there is no surviving issue, to the decedent's parent or  
27 parents equally.

28 (c) If there is no surviving issue or parent, to the issue of the  
29 parents or either of them, the issue taking equally if they are all of  
30 the same degree of kinship to the decedent, but if of unequal degree  
31 those of more remote degree take in the manner provided in  
32 Section 240.

33 (d) If there is no surviving issue, parent or issue of a parent, but  
34 the decedent is survived by one or more grandparents or issue of  
35 grandparents, to the grandparent or grandparents equally, or to the  
36 issue of ~~such~~ *those* grandparents if there is no surviving  
37 grandparent, the issue taking equally if they are all of the same  
38 degree of kinship to the decedent, but if of unequal degree those  
39 of more remote degree take in the manner provided in Section 240.



1 (e) If there is no surviving issue, parent or issue of a parent,  
2 grandparent or issue of a grandparent, but the decedent is survived  
3 by the issue of a predeceased spouse, to ~~such~~ *that* issue, the issue  
4 taking equally if they are all of the same degree of kinship to the  
5 predeceased spouse, but if of unequal degree those of more remote  
6 degree take in the manner provided in Section 240.

7 (f) If there is no surviving issue, parent or issue of a parent,  
8 grandparent or issue of a grandparent, or issue of a predeceased  
9 spouse, but the decedent is survived by next of kin, to the next of  
10 kin in equal degree, but where there are two or more collateral  
11 kindred in equal degree who claim through different ancestors,  
12 those who claim through the nearest ancestor are preferred to those  
13 claiming through an ancestor more remote.

14 (g) If there is no surviving next of kin of the decedent and no  
15 surviving issue of a predeceased spouse of the decedent, but the  
16 decedent is survived by the parents of a predeceased spouse or the  
17 issue of ~~such~~ *those* parents, to the parent or parents equally, or to  
18 the issue of ~~such~~ *those* parents if both are deceased, the issue taking  
19 equally if they are all of the same degree of kinship to the  
20 predeceased spouse, but if of unequal degree those of more remote  
21 degree take in the manner provided in Section 240.

